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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6786 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DIVISONAL CONTROLLER

Versus

GAMSINH R ZHALA

Appearance:

1. Special Civil Application No. 6786 of 1991

MR HARDIK C RAWAL for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 10/07/2003

ORAL JUDGEMENT

The petitioner Gujarat State Road Transport Corporation has approached this Court with this petition under Article 227 of the Constitution of India to challenge the order of the Labour Court dated 9th May,

1990, passed in Reference (LCA) No. 2000/87.

2. The respondent was working with Gujarat State Road Transport Corporation as a conductor. On 13/14th October, 1983, he was on duty on Modassa - Bhilwada route. It was alleged that he had misappropriated money by tampering with the duplicate copies of the inter-state tickets issued during the journey, as some over-writing was found in some of the tickets. Departmental proceedings were held against him and ultimately he was dismissed from service. The employee therefore raised an industrial dispute and Reference was made. The Presiding Officer of the Labour Court considered the evidence on record and came to a conclusion that barring suspicion of the reporting officer, there was no evidence to support the case of misappropriation against the employee. The original tickets were not collected or produced during the enquiry. No witnesses with first hand information were examined during the enquiry. Before the Labour Court, the legality of the Departmental proceedings were not challenged, but the findings were under challenge. The Labour Court came to a conclusion that in absence of any material to support the suspicion hatched by the reporting officer and upheld by the Departmental authority, dismissal cannot be upheld. The Labour Court therefore set aside the order and directed GSRTC to reinstate the employee without backwages. Aggrieved by this order, the present petition is preferred.

Heard learned Advocate Mr. Raval for the petitioner and Mr. Prabhakar Upadhyay for the employee. It is not in dispute that the respondent employee has been reinstated in service following the order of the Labour Court.

Despite close scrutiny, this Court is not able to find any material to support the suspicion hatched by the reporting officer that the respondent employee had tampered with the duplicate copy of the interstate tickets issued by him in Modasa-Bhilwada route. No passenger is examined. The original tickets are not produced. There is nothing to indicate that the overwriting was only on duplicate copies of the tickets and originals did not contain any overwriting. Therefore the factual finding arrived at by the Labour Court does not call for any interference in exercise of power under Article 227 of the Constitution of India. This Court is therefore not inclined to entertain this petition. The petition deserves to be dismissed and same is dismissed. Rule is discharged with no order as to costs.

(A.L.Dave, J.)

*/Mohandas